

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

**In Case No. 2004-0775, Appeal of James River Corporation,
the court on August 23, 2005, issued the following order:**

The employer, James River Corporation, appeals an order of the workers' compensation appeals board (board) awarding medical benefits to the employee, Paul Atwood. The employer argues that the employee's claim for benefits was time barred. We affirm.

We will not overturn the board's decision unless we find by a clear preponderance of the evidence that the decision was unjust or unreasonable or that it was based on an error of law. Appeal of Wingate, 149 N.H. 12, 14 (2002).

The record reflects that the employee was injured in 1992. In 1996, the employer denied his request for payment of medical bills stating, "insufficient documentation to substantiate recent treatment and disability to be causally related to employment and/or 9/14/92 injury." The employee did not appeal. In April 2002, the employer denied payment for treatment received in December 2000, February 2001 and April 2001. In September 2003, the employee requested a hearing with the department of labor on the issues of payment of medical expenses and causal relationship. The department hearing officer found that the claimant was entitled to payment of his medical expenses after March 2002, eighteen months prior to his request. See RSA 281-A:42-d (1999) (compensation for benefits barred unless claimant petitions for hearing within eighteen months after claim denied by carrier). The employer appealed and the board reached the same conclusion.

Citing the language of RSA 281-A:42-d, the employer argues on appeal that because it denied the employee's claims in 1996 and the employee did not appeal, the employee's request for payment of subsequent bills is time-barred. RSA 281-A:42-d provides: "Compensation for disability, rehabilitation, medical benefits, or death benefits under this chapter shall be barred unless the claimant petitions for a hearing under RSA 281-A:43 within 18 months after the claimant receives notice that the claim has been denied by the insurance carrier or self-insurer pursuant to RSA 281-A:42, I(b)."

Given the remedial purpose of the workers' compensation statute and our past decisions, we find the employer's argument unpersuasive. RSA chapter 281-A allows employers to deny payment for certain expenses after an injury has been determined to be work-related; RSA 281-A:42-d imposes a time limit for employees to appeal that denial. It does not, however, bar an employee from ever seeking any compensation after a request for payment is denied. Moreover, contrary to the employer's contention, we do not construe the language in its 1996 denial as providing notice that it would deny any future request for treatment.

To the extent that the employer's argument may be construed to mean that it voluntarily made payments in 1992 and therefore was not prejudiced from asserting in 1996 that the employee's 1992 injury did not arise out of and in the course of the employer's service, see RSA 281-A:41 (1999), and that the employee's failure to appeal that denial collaterally estopped him from making further claims, it is simply untenable under the facts of this case. Not only did the board find that the employee was taken by ambulance to the hospital from the workplace after the injury that crushed his left foot, but also he remained out of work for over a year. The employer acknowledges that the employee received a permanent impairment award in 1995 for the injury. Finally, and most importantly, the 1996 denial of the employee's claim was at best ambiguous and failed to provide the employee with sufficient notice that the employer was attempting to deny the claim on the grounds that the original injury was not work-related. Indeed, one reason given for the denial was that the employee failed to provide adequate documentation that the 1996 treatment was related to the 1992 injury.

The employer also argues that the board erred by ignoring its 1996 denial and addressing only its 2002 denial. The employer raised this issue in its motion for reconsideration. In its order denying that motion, the board stated, "The essence of the Board's ruling is that a claim for medical payments, once denied, does not bar all future requests for later medical payments." Therefore, even if the board did not specifically address the 1996 denial in its order, it reached the correct result. Cf. Echo Consulting Services v. North Conway Bank, 140 N.H. 566, 569 (1995) (affirming decision of trial court when correct result reached and valid grounds exist to support it).

Affirmed.

NADEAU, DALIANIS and GALWAY, JJ., concurred.

Eileen Fox
Clerk